the woman could be guilty of the substantive offence as well as of the conspiracy. *United States* v. *Holte*, 236 U. S. 140.

It is a rule based on sound public policy that the victim of conduct which the law has made criminal for the victim's own protection, cannot be indicted for coöperating with the perpetrator. See 24 HARV. L. REV. 61; and see *Berdos* v. *Tremont & Suffolk Mills*, 209 Mass. 489, 495, 95 N. E. 876, 878. To take the case out of the scope of this doctrine, the court relies on decisions in three jurisdictions that a woman can be indicted for conspiring to have another commit the crime of abortion on her. *Queen* v. *Whitchurch*, 24 Q. B. D. 420; *Solander* v. *People*, 2 Colo. 48; *State* v. *Crofford*, 133 Ia. 478, 110 N. W. 921. The English case represents a jurisdiction in which the woman can be indicted as accessory to the crime, on the theory that the statute makes abortion a crime to protect the unborn child as well as the mother. *King* v. *Sockett*, 1 Cr. App. R. 101. And see *Regina* v. *Cramp*, 14 Cox C. C. 390. The two American cases, however, assume the prevalent view that she cannot be indicted as accessory, but consider that the rule does not apply to the conspiracy. *Dunn* v. *People*, 29 N. Y. 523; *Commonwealth* v. *Follansbee*, 155 Mass. 274, 29 N. E. 471. The distinction seems unsound, for the grounds of policy which absolve the woman from liability for the substantive crime apply as strongly to an attempt, solicitation or conspiracy to commit the crime. Both decision and *dictum* in the principal case seem inconsistent with the primary purpose of the statute, which was to protect women from commercialized prostitution through the instrumentalities of interstate commerce. See *Hoke* v. *United States*, 227 U. S. 308, 322. And see Report of House Committee, H. R. 47, SIXTY-FIRST CONG., 2ND SESS., pp. 10, 11. "That the woman always is the victim" may well be an illusion, as is suggested by Mr. Justice Holmes, for the court; yet she was undoubtedly so regarded by Congress, as the very name of the statute suggests; and even Congressional illusions, while they should not be encouraged, should at least be respected by the judiciary.

DECEIT — PARTICULAR CASES — TRADE UNION'S FAILURE TO NOTIFY OF CHANGE IN WAGE SCALE. — A certain labor union had absolute control over the labor of bricklayers, and fixed the wage to be charged for their services at the beginning of each calendar year. According to custom, in the early part of 1910, the union informed the plaintiff, a contractor, of the rate for that year, but shortly thereafter lowered the rate without giving notice to the plaintiff. In ignorance of the change the contractor continued for several months to pay the higher wage, and he now seeks to recover the loss from the union. *Held*, that he can recover. *Powers* v. *Journeymen Bricklayer's Union*, 172 S. W. 284 (Tenn.).

It seems impossible to gather from the facts any contract between the labor union and the contractor. Any recovery, therefore, must be in tort for deceit. No action for deceit, however, can be based on a representation that involves nothing but a promise or expression of intention, unless the defendant at the very time intended not to carry it out. *Edgington* v. *Fitzmaurice*, 29 Ch. D. 459; *cf. Long* v. *Woodman*, 58 Me. 49. And it is generally said that mere silence will not be ground for an action of deceit. See *Arkwright* v. *Newbold*, 17 Ch. D. 301, 318. But under certain circumstances, in view of the relation of the parties, there may be a duty to speak, and then silence will amount to a representation. See *Mason* v. *Banman*, 62 Ill. 76. Moreover, when a man makes a representation true at the time, but which subsequent facts, arising before it is acted upon, render false to the knowledge of the maker, non-disclosure of these facts is ground for avoidance of a contract based upon the original representation. *Traill* v. *Baring*, 4 DeG. J. & S. 318; *Janes* v. *Trustees of Mercer University*, 17 Ga. 515; *Lancaster County Bank* v. *Albright*, 21 Pa. 228. An action for deceit should lie under the same circumstances. *Loewer* v. *Harris*,

57 Fed. 368; see *Brownlie* v. *Campbell*, 5 A. C. 925, 950. See SALMOND, TORTS, 3 ed., p. 448. In the principal case a corresponding duty to speak seems to arise by reason of the relation between the parties and the complete dependence of the contractor upon the representations of the union. It follows that the union's statement constituted a continuing representation which upon the lowering of the wage scale without notice to the plaintiff became a positive misrepresentation.

DEEDS — CONSTRUCTION AND OPERATION IN GENERAL — CONVEYANCE BY GRANTOR TO HIMSELF AND WIFE. — The grantor conveyed land to himself and wife "jointly, the survivor to have full ownership." The grantor died, and after the death of the wife, his heirs claim the land. *Held*, that they are entitled to one-half. *Wright* v. *Knapp*, 150 N. W. 315 (Mich.).

The decision takes the ground that the conveyance created a tenancy in common. According to very old authority a deed made to one incapable of taking and to others that are capable, inures only to the benefit of those capable. SHEP. TOUCH. 82; *Humphrey* v. *Tayleur*, 1 Amb. 136. To the same effect are *Ball* v. *Deas*, 2 Strob. Eq. (S. C.) 24; *McCord* v. *Bright*, 44 Ind. App. 275, 87 N. E. 654. Therefore, if a man, intending to create a joint tenancy, conveys land to himself and others, a joint estate in the whole is created in the others, since he cannot convey to himself. *Cameron* v. *Steves*, 4 Allen (New Bruns.) 141. See 21 HARV. L. REV. 57. But see *Colson* v. *Baker*, 42 N. Y. Misc. 407, 87 N. Y. Supp. 238; *Saxon* v. *Saxon*, 46 N. Y. Misc. 202, 93 N. Y. Supp. 191. If the intention was to create a tenancy in common, however, the other grantees would get the property subject to the grantor's intended share, which would remain in him. *Green* v. *Cannady*, 77 S. C. 193, 57 S. E. 832. But there seems to be no basis for reaching such a result in the principal case. It is true that in spite of the common law's original bias in favor of joint tenancies, the courts from comparatively early times exercised every ingenuity to construe deeds as creating estates in common whenever possible. *Galbraith* v. *Galbraith*, 3 S. & R. (Pa.) 392. *Cf. Seitz* v. *Seitz*, 11 App. D. C. 358, 370. This tendency, moreover, has been embodied in statutes in many jurisdictions. See N. Y. CONSOL. LAWS, REAL PROPERTY LAW, § 66; HOW. MICH. STAT., § 10666. But the courts refuse to violate the express intention of the parties to the contrary. *Cover* v. *James*, 217 Ill. 309, 75 N. E. 490. And in Michigan the statutory provision for construction as a tenancy in common does not apply to a grant to husband and wife. HOW. MICH. STAT., § 10667. It appears to be equally impossible to support the case on a mere conjecture that the construction approximates more nearly to the grantor's intent since it was impossible for a tenancy by the entireties to be created, and the grantor did not intend to divest himself of all the property.

DOWER — INJUNCTION AGAINST WASTE TO PROTECT INCHOATE RIGHT OF DOWER. — A deserted wife brought a bill in equity to enjoin the opening and operating of oil wells by the defendant on land which he had obtained from her husband by a deed in which she did not join. *Held*, that the relief will not be given. *Rumsey* v. *Sullivan*, 150 N. Y. Supp. 287 (App. Div.).

For a discussion of the principles involved in the decision, see NOTES, p. 615.

EMINENT DOMAIN — COMPENSATION — TAKING OF PRIVATE WAY FOR PUBLIC STREET. — The owner of a tract of land sold all the lots, with private easements in plotted streets, but retained the fee in the streets himself. The city later condemned the fee in the streets and awarded compensation, which the abutters now claim to share on account of their private easements. *Held*, that they are not entitled to the award. *In re Hamburger*, 150 N. Y. Supp. 771 (App. Div.).